

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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| IN RE PHARMACEUTICAL INDUSTRY<br>AVERAGE WHOLESALE PRICE LITIGATION   |   |
| <p>THIS DOCUMENT RELATES TO:</p> <p><i>The City of New York v. Abbott Labs., et al.</i><br/>(S.D.N.Y. No. 04-CV-06054)</p> <p><i>County of Westchester v. Abbott Labs., et al.</i><br/>(S.D.N.Y. No. 03-CV-6178)</p> <p><i>County of Rockland v. Abbott Labs., et al.</i><br/>(S.D.N.Y. No. 03-CV-7055)</p> <p><i>County of Putnam v. Abbott Labs, et al.</i><br/>(S.D.N.Y. No. 05-CV-04740)</p> <p><i>County of Dutchess v. Abbott Labs, et al.</i><br/>(S.D.N.Y. No. 05-CV-06458)</p> <p><i>County of Washington v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00408)</p> <p><i>County of Rensselaer v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00422)</p> <p><i>County of Albany v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00425)</p> <p><i>County of Warren v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00468)</p> <p><i>County of Greene v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00474)</p> <p><i>County of Saratoga v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00478)</p> <p><i>County of Columbia v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00867)</p> <p><i>Essex County v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00878)</p> <p><i>County of Chenango v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00354)</p> <p><i>County of Broome v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00456)</p> <p><i>County of Onondaga v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00088)</p> <p><i>County of Tompkins v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00397)</p> | <p>MDL No. 1456<br/>Master File No. 01-012257-PBS</p> <p>Judge Patti B. Saris</p> <p><b>STIPULATION REGARDING FULL<br/>DISCOVERY OF DEFENDANT<br/>MERCK &amp; CO., INC.</b></p> |

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| <p><i>County of Cayuga v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00423)</p> <p><i>County of Madison v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00714)</p> <p><i>County of Cortland v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00881)</p> <p><i>County of Ulster v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 06-CV-0123)</p> <p><i>County of Herkimer v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00415)</p> <p><i>County of Oneida v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00489)</p> <p><i>County of Fulton v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00519)</p> <p><i>County of St. Lawrence v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00479)</p> <p><i>County of Jefferson v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00715)</p> <p><i>County of Lewis v. Abbott Labs, et al.</i><br/>(N.D.N.Y. No. 05-CV-00839)</p> <p><i>County of Chautauqua v. Abbott Labs, et al.</i><br/>(W.D.N.Y. No. 05-CV-06204)</p> <p><i>County of Allegany v. Abbott Labs, et al.</i><br/>(W.D.N.Y. No. 05-CV-06231)</p> <p><i>County of Cattaraugus v. Abbott Labs, et al.</i><br/>(W.D.N.Y. No. 05-CV-06242)</p> <p><i>County of Genesee v. Abbott Labs, et al.</i><br/>(W.D.N.Y. No. 05-CV-06206)</p> <p><i>County of Wayne v. Abbott Labs, et al.</i><br/>(W.D.N.Y. No. 05-CV-06138)</p> <p><i>County of Monroe v. Abbott Labs, et al.</i><br/>(W.D.N.Y. No. 05-CV-06148)</p> <p><i>County of Yates v. Abbott Labs, et al.</i><br/>(W.D.N.Y. No. 05-CV-06172)</p> <p><i>County of Niagara v. Abbott Labs, et al.</i><br/>(W.D.N.Y. No. 05-CV-06296)</p> <p><i>County of Seneca v. Abbott Labs, et al.</i><br/>(W.D.N.Y. No. 05-CV-06370)</p> <p><i>County of Orleans v. Abbott Labs, et al.</i><br/>(W.D.N.Y. No. 05-CV-06371)</p> <p><i>County of Ontario v. Abbott Labs, et al.</i><br/>(W.D.N.Y. No. 05-CV-06373)</p> |  |
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| <i>County of Schuyler v. Abbott Labs, et al.</i><br>(W.D.N.Y. No. 05-CV-06387)<br><br><i>County of Chemung v. Abbott Lab, et al.</i><br>(W.D.N.Y. No. 05-CV-06744)<br><br><i>County of Steuben v. Abbott Labs, et al.</i><br>(W.D.N.Y. No. 05-cv-62231)<br><br><i>Count of Wyoming v. Abbott Labs, et al.</i><br>(W.D.N.Y. No. 05-CV-6379) |  |
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WHEREAS, on or about September 14, 2007, the Court entered Case Management Order No. 33 (“CMO 33”), which adopted, inter alia, “procedures for targeted discovery on drugs subject to Federal Upper Limits (‘FULs’) and that were paid for by New York Medicaid on the basis of such FULs”;

WHEREAS, pursuant to CMO 33, only the “Designated FUL Drugs,” as defined in CMO 33, are to be subject to these procedures;

WHEREAS, Vasotec® 20MG Tablets and its generic equivalent, enalapril maleate 20MG Tablets, are among the Designated FUL Drugs;

WHEREAS, Plaintiffs have identified eight defendants as manufacturers of NDCs corresponding to Vasotec® 20MG Tablets or enalapril maleate 20MG Tablets;

WHEREAS, Plaintiffs have identified Merck & Co., Inc. (“Merck”) as the manufacturer of two NDCs – 00006071468 and 00006071482 – corresponding to Vasotec® (enalapril maleate) 20MG Tablets (the “Merck Vasotec NDCs”);

WHEREAS, Merck avers that, effective on or about April 1, 2002, Merck sold its U.S. rights to market and sell Vasotec® (enalapril maleate) 20MG Tablets to Biovail Laboratories Incorporated (“Biovail”);

WHEREAS, Merck avers that, since on or about December 1, 2002, Merck has had no control, input, influence, or involvement with regard to the sales, marketing, or pricing of Vasotec® (enalapril maleate) 20MG Tablets in the United States; and

WHEREAS, there was no FUL in place for enalapril maleate 20MG Tablets prior to August 2003;

NOW, THEREFORE, Plaintiffs and Merck hereby stipulate and agree that Merck is not obligated to respond to the Federal Upper Limit discovery relating to Vasotec® 20MG Tablets or enalapril maleate 20MG Tablets.

DATED this 23rd day of April, 2008.

s/Joanne M. Cicala  
Joanne M. Cicala (JC 5032)  
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*Attorneys for Plaintiffs the City of New York and all  
Captioned New York Counties Except Nassau and  
Orange*

DATED this 13th day of February, 2008.

s/Robert B. Funkhouser  
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Robert P. Reznick  
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*Attorneys for Defendant Merck & Co., Inc.*

**CERTIFICATE OF SERVICE**

I certify that, on April 23, 2008, I caused a true and correct copy of the Stipulation Regarding FUL Discovery of Defendant Merck & Co., Inc. to be delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending a copy to Lexis-Nexis File & Serve for posting and notification to all parties.

/s/Robert B. Funkhouser  
Robert B. Funkhouser